

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

WOODROW DAVID WILSON,	:	
Plaintiff,	:	Case No. 3:05CV318
vs.	:	District Judge Thomas M. Rose
	:	Magistrate Judge Sharon L. Ovington
MONTGOMERY COUNTY, et al.,	:	
Defendants.	:	

REPORT AND RECOMMENDATIONS¹

On September 25, 200, the Clerk of Court sent Plaintiff a copy of an Order (Doc. #30) denying Defendants' Motion to Strike. On October 11, 2006, the U.S. Postal Service returned the Order as undelivered. (Doc. #32).

Plaintiff was thereafter ordered to Show Cause why his case should not be dismissed for failure to prosecute pursuant to Fed. R. Civ. P. 41(b) particularly since the Court has no method by which it can contact him regarding scheduling or other essential matters. (Doc. #33); *See Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962). Plaintiff was also given notice that a failure to respond to the Court's Order to Show Cause may warrant dismissal of his case due to his failure to prosecute. Not surprisingly, in light of the prior unsuccessful attempt to mail a document to Plaintiff, the U.S. Postal Service returned the Order to Show Cause to the Clerk of Court as undeliverable. (Doc. #34).

¹ Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendations.

Although this Court prefers to adjudicate cases on their merits, Plaintiff's failure to keep the Court apprised of his current address and his failure to prosecute this case in any manner since he last updated his address of record on January 17, 2006 (Doc. #17) warrants dismissal of this case under Fed. R. Civ. P. 41(b) for failure to prosecute.

IT IS THEREFORE ORDERED THAT:

1. Plaintiff's Complaint remaining claims be DISMISSED without prejudice; and
2. The case be terminated on the docket of this Court.

October 20, 2006

s/Sharon L. Ovington
Sharon L. Ovington
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because this Report is being served by mail. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof.

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).